

-7-

REMARKS

In response to the Office Action mailed on February 8, 2006, Applicant(s) respectfully request(s) reconsideration.

Claim(s) 1, 3, 8, 10, 15, 17, 22, 24 and 33-40 are now pending in this Application.

Claims 2, 4-7, 9, 11-14, 16, 18-21, 23, 25-32 remain canceled.

In this Amendment, claim(s) 1, 8, 15, 22, 24, 33-40 have been amended and claim(s) 41-42 have been added. Applicant(s) believe that the claim(s) as presented are in condition for allowance. A notice to this affect is respectfully requested.

Claim(s) 1, 8, 15, 22 and 41 are independent claims and the remaining claims are dependent claims.

The Office Action rejects claims 1, 3, 8, 10, 15, 17 and 37-40 under 35 U.S.C. §112. Claims 1, 8 and 15 have been herein amended to recite that the memory allocated to the donor process is accessible to other processes, as described in the specification at page 10, lines 20-26. Further, claims 37-40 have been amended to recite that the donor process hibernates in an idle state not executing program instructions, as disclosed at page 9, line 24-page 10-line 6.

Claim 26 has been further amended to recite that the donor process transfers accessibility of the memory, rather than ownership, as described at page 10, lines 16-19 of the specification. The rejection under 35 U.C.C. §112 is believed overcome in view of these amendments and it is respectfully requested that the rejection be withdrawn.

The Office Action rejects claims 22 and 24 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,940,868 to Wagner (Wagner '868). Applicant respectfully disagrees with these contentions and assert that the present claimed invention is not anticipated by any disclosure in the Wagner '868 references.

Wagner employs locator means 30 (col. 4, lines 8-23) to perform manipulations and access to the allocated memory. The locator means 30 in the cited Wagner '868 application employ a passive donor process that is not autonomous, but rather a "shell" for placeholding memory. (4:50-59). In contrast, the claimed donor process remains operative and executes allocate memory and deallocate memory modules (504, 506) responsive to a memory manager (VLM driver 210) for obtaining and releasing donated memory, discussed further at page 9, lines 13-29. Therefore, the configuration claimed by claim 22 is distinguishable because the cited '868 reference discloses a process for carving out a memory block and then severing its control linkages to remain a passive "codeless" process, as disclosed at col. 4, lines 50-59 of Wagner '868.

Therefore, the cited art (Wagner '868) discloses a codeless container process which exists solely for the purpose of earmarking memory for use by a requesting process having a need for more memory than the OS can provide to a single process. In contrast, the claimed invention employs a donor process 208 actively executing memory allocation and deallocation modules (504, 506) for registering memory obtained on behalf of the donor process and transferring ownership such that the memory is accessible by the consumer process 206, discussed at page 9, lines 1-12 for allocation and at page 12, line 12-22 for deallocation. Therefore, while the cited reference teaches a passive memory "shell" process for pooling memory, the present invention teaches an autonomous process operable to execute instructions, as discussed in Wagner '686 at col. 4, lines 50-59.

This distinction is codified in amended claim 22, which clarifies the ability of the donor process to continue processing responsive to the VLM driver 210 by reciting "the means for pooling memory further including means for donating memory, further comprising:

means for detecting a memory allocation by the donor process;

means for transferring accessibility of the allocated memory to the consumer process; and

means for deallocating the memory by sending a release request to the donor process," as discussed at page 24, line 10 – page 25, line 6.

Claim(s) 1, 3, 8, 10, 15, 17 and 33-40 have been rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,940,868 to Wagner in view of Fishler et al., U.S. Patent No. 5,931,903 (Fishler '903). Fishler '903 is cited for the proposition that Fishler discloses transferring ownership of allocated memory (Office Action, paragraph 10). As indicated above, and as further discussed below, Wagner results in a dormant shell process having no executable ability. Modification according to Fishler is irrelevant because, since the dormant shell process has no autonomous control, it is indifferent to ownership as disclosed by Fishler '903.

In the presently claimed invention, the donor process 208 remains executable in a sleep, or hibernate state, pending access, allocation, and deallocation messages or commands from a memory manager (VLM driver 210). No such execution of instructions is performed in the Wagner '868 shell processes. The donor process 208 actively executes instructions, as discussed further below, for enabling access to the allocated memory by the consumer process 206. Accordingly, one of skill in the art would not look to Fishler '903 to modify Wagner '868 because the Wagner process is merely a memory placeholder shell. Further, even if one were to attempt to modify Wagner according to Fishler, the claimed invention would still not be realized because the dormant Wagner process has no executable ability to transfer ownership (specification, page 9, lines 17-19). Accordingly, the claimed invention is not shown, taught, or disclosed, alone or in combination, by either Wagner or Fishler.

Accordingly, in response to the rejection under 35 U.S.C. 103(a), Claim 1 has been herein amended with the subject matter of claim 33 to recite hibernating the donor process in a sleep state while the allocated memory remains accessible to other processes, to further clarify and distinguish the claimed invention. Such operation is discussed in further detail in the

specification at page 9, lines 24-29. Independent claims 8 and 15 have likewise been similarly amended.

Further, claim 41 has been herein amended with the subject matter of claims 1 and 3, and further to recite that donating memory further comprises:

“detecting a memory allocation by the donor process;

receiving a register command from a memory manager;

transferring ownership of the allocated memory to the memory manager in response to the register command,” to further clarify and distinguish claim the present invention.

Claim 42 has been further added, to recite similar features with respect to the configuration of claims 1, 33 and 37, and recites all the features thereto. Since the Wagner system leaves the process as a dormant memory shell, and since the depicted flow control only shows allocation and not a complementary deallocation, Wagner results in a process lacking any autonomous control (i.e. executable code instructions) operable to perform on its own (col. 4, lines 57-59). In contrast, the claimed donor process retains the allocate and deallocate memory modules and is operable for ongoing allocation and deallocation responsive to the VLM process managing the memory allotments of the donor processes. Accordingly, it is apparent that Wagner does not show, teach or disclose, alone or in combination, an executable donor process 208 responsive to a memory management process 210 for allocating and deallocating memory accessible to a consumer process 206, as recited in added claim 42.

Claims 33-37 have been herein amended to recite “transferring” ownership, rather than “transforming,” to correct a minor grammatical inconsistency.

As the remaining claims depend from, either directly or indirectly, from claims 1, 8, 15, 22 and 41, which by the foregoing are respectfully submitted as being allowable, it is further submitted that all claims are now in condition for allowance.

-11-

Applicant(s) hereby petition(s) for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-3735.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-9660, in Westborough, Massachusetts.

Respectfully submitted,



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